

USAWC STRATEGY RESEARCH PROJECT

**NEGATIVE IMPACT OF ARTICLE 98 SANCTIONS IN THE WESTERN HEMISPHERE**

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## **ABSTRACT**

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KEY TERMS: International Military Education and Training (IMET), American Servicemembers Protection Act (ASPA), US Southern Command

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The U.S. Congress enacted the American Servicemembers' Protection Act (ASPA) on 2 August 2002 in response to the newly implemented 1998 Rome Treaty, which established the International Criminal Court (ICC), an international organization that for the first time in history asserts jurisdiction over nation states not party to the established treaty. As of 1 July 2003, the ASPA requires an Article 98 agreement with every country where U.S. Security Assistance Organizations (SAOs) have been established; countries not signing an Article 98 agreement are subject to security assistance sanctions, to include the loss of International Military Education and Training (IMET).

Whereas ASPA Article 98 sanctions are applied worldwide, this Strategic Research Project (SRP) examines the current impact of these sanctions on Western Hemisphere countries. It argues that the U.S. Armed Forces will steadily lose their military interaction and influence with Western Hemisphere militaries to competing countries, such as the People's Republic of China, Russia, and Venezuela, primarily due to the lack of IMET funding. Presidential National Interest Waivers and recent decoupling of IMET from the sanctions are steps taken to correct legislation that had unintended consequences. Further actions are needed to stem the loss of influence.



## NEGATIVE IMPACT OF ARTICLE 98 SANCTIONS IN THE WESTERN HEMISPHERE

The first sentence of President Bush's letter of introduction to The National Security Strategy is short but clear: "America is at war."<sup>1</sup> The supporting National Defense Strategy, National Military Strategy, and National Strategy for Homeland Security carry the same message. To win this asymmetric war will require more cooperation and help from our friends and allies than ever before. In the long run, we cannot win the war on our own; accordingly, we must make every effort to not only coordinate and cooperate with our friends and allies, but also to assist those countries that lack the resources to counter transnational threats. Without exception, our national strategy documents remind us that we are a nation at war; further they assert that collective security is vital to success. Our friends and allies are key to winning the Global War on Terrorism.

Our post-9/11 efforts have understandably focused on Afghanistan and Iraq, but the nature of the transnational threat requires that the Western Hemisphere, specifically Central and South America and the Caribbean, not be neglected as it has in the past—the threat is global, not regional. The March 2006 National Security Strategy emphasizes that the United States needs to develop agendas that solidify strategic relationships. The following points apply to our Western Hemisphere:

- 1) Our own Hemisphere is the frontline of defense of American national security.
- 2) Our goal is security cooperation.
- 3) Countries in the Western Hemisphere must be aided in the path to sustained political and economic development.
- 4) If America's nearest neighbors are not secure and stable, then Americans will be less secure.
- 5) Our strategy for the Hemisphere begins with deepening key relationships with Canada and Mexico.
- 6) We must also solidify strategic relationships with regional leaders in Central and South America and the Caribbean who are deepening their commitment to democratic values.
- 7) We must continue to work with regional partners to make multilateral institutions like the OAS and the Inter-American Development Bank more effective and better able to foster concerted action to address threats that may arise to the region's stability, security, prosperity, or democratic progress.

- 8) Together, these partnerships can advance our four strategic priorities for the region: bolstering security, strengthening democratic institutions, promoting prosperity, and investing in people.<sup>2</sup>

From time to time, the United States has pursued foreign policy which, while noble in its purpose, has had unintended consequences, such as having a negative impact on our relations with regional partners. The American Servicemen's Protection Act (ASPA), enacted by the U.S. Congress in 2003 in response to the ICC's passage of Article 98, is one of those policies. This SRP offers a historical perspective on the ICC and analyzes the enactment of Article 98. It then describes U.S. Congressional reaction to the ICC initiative. It describes the negative impact that the ASPA and the ensuing Article 98 sanctions have had on military-to-military relations with our regional partners, specifically with respect to the IMET program (International Military Education and Training, a low-cost, highly effective component of U.S. security assistance that provides training on a grant basis to students from over 125 allied and friendly nations). It points out the short-term and long-term consequences that the sanctions are exerting on military-military relationships between the U.S. military forces and our regional partners.

Sanctions imposed on the IMET program significantly impacted U.S. educational institutions (both military and civilian) to varying degrees – revealing indisputably that the sanctions are negatively affecting these institutions. Some institutions accepted the loss stoically while others made funding adjustments to meet the challenge. But most were adamant in expressing their view that the sanctions created a vacuum that permitted competing states to address the military needs of our partners. Thus the sanctions continue to impact negatively on our future military interaction with our hemispheric allies. This SRP illustrates how much time and energy has been spent both by the U.S. interagency and by all the countries involved in dealing with the political impact of Article 98. In fact, the term "Article 98" is as readily recognized by regional politicians today as it is by military commanders and armed forces personnel.

Recent positive steps by means of National Interest Waivers (NIWs) have been taken by President Bush to remedy the negative impact of Article 98 sanctions on our partner nations.<sup>3</sup> Likewise, Congress is working on ways to address the problem. This SRP recommends further steps to alleviate this diminution of influence. If this situation is not corrected, it will yield long-term negative effects on U.S.-partner nation military interactions.

While the United States is currently focused on the Middle East, significant emerging threats are emanating from the south. Left unchallenged, they can yield negative strategic

implications. In view of these emerging transnational threats and the U.S. focus on Homeland Defense, neglecting our partner nations to the south is no longer an option. In 2001, Joseph R. Nuñez, US Army War College, wrote an article for the *Christian Science Monitor* in which he asserted that “There can be no homeland security unless we significantly improve security cooperation with our neighbors. Current arrangements are, at best, incomplete. We have some security cooperation with Canada through NORAD, but little or none with Mexico.”<sup>4</sup> Assistant Secretary of State for Western Hemisphere Affairs Tom Shannon recently reported that USCENTCOM warned that Islamic radicalism and Al Qaeda’s influence was a growing threat in Venezuela and the Tri-Border region.<sup>5</sup> More than ever before, our national security depends on the cooperation and capabilities of our Latin American and Caribbean partners, as well as our allies worldwide.

### Background

On 12 July 1998, United Nations diplomats from 160 countries met in Rome and adopted a treaty, known as the Rome Statute or Rome Treaty, an agreement to create the International Criminal Court. Under the terms of the Rome Statute, forces deployed internationally could be subject to the jurisdiction of the International Criminal Court (ICC) if they are accused of one of four major crimes: genocide, crimes against humanity, war crimes, and the crime of aggression. The Rome Statute took effect on 1 July 2002.<sup>6</sup> Although President Clinton directed that the United States sign the Rome Statute on 31 December 2000, he later stated that the treaty was fundamentally flawed and that he would not forward the treaty to the Senate for ratification. He also recommended that his successor not forward the treaty to the Senate. On 6 May 2002, the United States, now under the Bush Administration, formally notified the United Nations that it did not intend to become a party to the Rome Statute.<sup>7</sup>

The U.S. Congress enacted the American Servicemembers’ Protection Act (ASPA) on 2 August 2002 in response to the Rome Treaty of 1998. As of 1 July 2003, the ASPA requires an Article 98 agreement with every country where Security Assistance Organizations (SAOs) have been established; countries not signing an Article 98 agreement are subject to certain security assistance sanctions such as: loss of International Military Education and Training (IMET) and Foreign Military Financing (FMF) funds, Military Assistance Drawdowns, and denial of Excess Defense Articles (EDA) assistance.<sup>8</sup>

Although the enactment of the ASPA was designed to protect our soldiers no matter where they served in the world, the law had unforeseen circumstances which have led to a deterioration of military-to-military interaction with America’s friends and allies. For an

appreciation of the ramifications of the ASPA, historical perspectives on both the birth of the ICC and the basis for the enactment of the ASPA follow.

### International Criminal Court

The creation of the ICC began following the creation of the Nuremberg and Tokyo tribunals after World War II. In 1989, UN delegates from Trinidad and Tobago revived the idea of establishing an international criminal court; they proposed the creation of a world judicial body charged with dealing with crimes related to international drug trafficking. Meanwhile, the UN established temporary international criminal tribunals to adjudicate cases of war crimes, crimes against humanity, and genocide committed during recent conflicts in the former Yugoslavia and Rwanda. In 1996, the UN General Assembly convened a Preparatory Committee on the Establishment of an International Criminal Court, which then completed an amended draft statute in 1998.<sup>9</sup> The Rome Treaty became effective on 1 July 2002, and its inauguration took place on 11 March 2003.<sup>10</sup>

While Article I of the Rome Statute establishes the court and Article 127 allows for a country's withdrawal from the ICC, Article 98 authorizes participating countries to enter into bilateral agreements with other nations that would guarantee that the participating countries would agree not to detain citizens of the other country and submit them to the jurisdiction of the ICC.<sup>11</sup>

### United States Opposition to the ICC

The United States originally regarded the ICC as beneficial to the international community, particularly regarding global human rights abuses, especially those occurring in Africa. As he signed the Rome Statute, President Clinton reiterated "our concerns about the significant flaws in the treaty." But he hoped that the U.S. signature would provide us with influence in the future and assist our effort to fix this treaty. Unfortunately, this did not prove to be the case.<sup>12</sup> So President Clinton did not forward the treaty to the Senate for ratification. As noted above, the United States later decided not to become a signatory to the ICC for legal and constitutional reasons.

Partner nation politicians, especially those from populist-led governments, have used terms like "immunity from prosecution" when describing their opposition to their government's signing of an Article 98 bilateral agreement. Unfortunately, the U.S. Congressional legislation was entitled "Bilateral Immunity (Article 98) Agreements."<sup>13</sup> Foreign nation politicians with anti-U.S. sentiments quickly latched on to the word "Immunity" and used the term to support political agendas. In hindsight, a more acceptable term should have been applied to the Article 98



Agreement – something with a more cooperative tone, like ‘Bilateral Judicial (Article 98) Agreements.’

Former U.S. Ambassador to the United Nations John R. Bolton, as Under Secretary for Arms Control and International Security in 2003, provided details of the U.S. position against the International Criminal Court charter. Bolton’s concern (the U.S. position) goes beyond the possibility that a U.S. soldier who violates our own laws and values by allegedly committing a war crime will be prosecuted by the ICC. He sees our country’s top civilian and military leaders, those responsible for our defense and foreign policy, potentially at risk at the hands of the ICC’s politically unaccountable prosecutor. He maintains that we are not seeking immunity for our citizens; rather, we want a simple, direct non-surrender agreement as contemplated in the Rome Statute. Consider the following excerpts from his remarks to the Federalist Society, Washington, DC, 14 November 2002:

The Court’s flaws are basically two-fold, substantive, and structural. As to the former, the ICC’s authority is vague and excessively elastic, and the Court’s discretion ranges far beyond normal or acceptable judicial responsibilities, giving it broad and unacceptable powers of interpretation that are essentially political and legislative in nature. This is most emphatically *not* a Court of limited jurisdiction. Crimes can be added subsequently that go beyond those included in the Rome Statute. Parties to the Statute are subject to these subsequently-added crimes only if they affirmatively accept them, but the Statute purports automatically to bind non-parties, such as the United States, to any such new crimes. It is neither reasonable nor fair that these crimes would apply to a greater extent to states that have not agreed to the terms of the Rome Statute than to those that have.

A fair reading of the treaty leaves one unable to answer with confidence whether the United States would now be accused of war crimes for legitimate but controversial uses of force to protect world peace. No U.S. Presidents or their advisors could be assured that they would be unequivocally safe from politicized charges of criminal liability.

It is important to note that we are not seeking immunity for our citizens, but a simple, non-surrender agreement as contemplated in the Rome Statute. We fully commit ourselves to, where appropriate, investigate and prosecute serious, credible allegations of war crimes, crimes against humanity and genocide that have been made against any of our people.

Signatories of the Statute of Rome have created an ICC to their liking, and they should live with it. The United States did not agree to be bound, and must not be held to its terms.<sup>14</sup>

Although the ICC today is a functioning reality, the U.S. position is that it continues to be a forceful advocate for accountability of perpetrators of war crimes, genocide, and crimes against

humanity. However, the United States is confident that there are more suitable alternatives to the ICC. Some recommendations are:

States pursue credible justice at home rather than abdicating responsibility to an international body.

Where domestic legal institutions are lacking, but domestic will is present, the international community must be prepared to assist in creating the capacity to address the violations. This includes political, financial, legal, and logistical support.

Where domestic will is non-existent, the international community can intervene through the UN Security Council, consistent with the UN charter.

Ad hoc international mechanisms may be created under the auspices of the UN Security Council, as was done to establish the International Tribunals for the former Yugoslavia and Rwanda, or hybrid courts -- consisting of international participants and the affected state participants -- can be authorized, as in the case of Sierra Leone.<sup>15</sup>

Further complicating our international relations regarding the ICC was the Nethercutt Amendment, which was first introduced into the U.S. Foreign Operations Appropriations Bill in July 2004 by U.S. Representative George Nethercutt, a Republican from Washington State. In addition to the funds slashed under ASPA, which cut millions of dollars in military assistance to ICC states who failed to sign a bilateral ICC immunity agreement (BIA) with the United States, the Nethercutt Amendment cuts \$2.5 billion in Economic Support Fund (ESF) aid to countries that have ratified the International Criminal Court (ICC) treaty but have not signed a bilateral ICC immunity agreement (BIA) with the United States. Programs supported by ESF include international counter-terrorism efforts, peace process programs, and anti-drug trafficking initiatives, among others.<sup>16</sup>

In addition to the European Union's position favoring the ICC, International and non-governmental organizations vehemently opposed both the ASPA and the Nethercutt Amendment. They saw these legislative actions as gravely damaging to our international relations.

As the Political-Military Advisor to the Commanding General (CG) of U.S. Army South, I traveled extensively throughout Latin America and the Caribbean during the period 2003-2006. Almost without exception, talking points for the CG included the Article 98 Sanctions. The topic became so sensitive that several U.S. ambassadors advised the CG not to broach the subject with the host commanders and ministers of defense unless the subject was brought up by them first. But the sanctions issue almost always arose. On several occasions, the commanders or ministers would state that they had always enjoyed very close and cordial relations with the U.S.

military, so they could not understand why their militaries were now penalized for political decisions (not signing a bilateral Article 98 Agreement with the U.S.) which they advised against, but the decision was ultimately up to their legislature and chief of state. Allies mistakenly thought that the security assistance training, military sales and excess defense articles were provided by Defense Department (DoD) funds and that DoD was imposing the sanctions. They were somewhat relieved to hear that the U.S. Defense Department was not imposing the sanctions and that the funds were provided by the State Department. Thus they gained a better understanding of how the military assistance sanctions were tied to political decisions.

Realizing the strategic importance of maintaining solid military-to-military relations, especially in an era of transnational threats and a focus on homeland defense, the CG directed his staff to develop other engagement initiatives (without circumventing the Article 98 Sanctions) to maintain military support to regional armies which the Combatant Commander prioritized as vital to our national security. Other component commanders from the U.S. Air Force, Navy and Marines also had to increase their engagement initiatives; they drew from different streams of funding like Commander's Traditional Authority (TCA), provided by the Combatant Commander, and Counter-Drug (CD) and Counter-Terrorist (CT) funds to make up for the loss of IMET funds for training the regional militaries and security forces.

### Current Situation

Recently, U.S. policy makers finally began to listen to both the generals and ambassadors as they pled their case for the lifting of sanctions. Officials of the Defense Department, the State Department, and members of Congress are beginning to realize that the continuation of Article 98 sanctions is adversely impacting political-military relations with our regional armed forces. Some Congresspersons and Bush Administration officials have expressed concerns about the unintended effects of these sanctions on U.S. relations with Latin America and the Caribbean. Policy makers and military commanders are considering some options to mitigate these effects without undermining ASPA or diplomatic efforts to secure Article 98 agreements.<sup>17</sup>

The Bush Administration appears to be divided over whether to continue linking U.S. assistance to Article 98 agreements. On her way to Chile for the inauguration of President Bachelet, Secretary of State Condoleezza Rice was asked by a reporter if she would be discussing with the Chilean President the issue of a waiver because of Article 98 sanctions barring military aid to countries that are members of the International Criminal Court. Here is her response:

As to Chile and the ICC, we do have certain statutory requirements concerning the ICC. I think you're probably aware of, as I testified yesterday that we're looking at the issues concerning those situations in which we may have, in a sense, sort of the same as shooting ourselves in the foot, which is, I guess, what we mean. By having to put off aid to countries with which we have important counterterrorism or counter drug or in some cases, in some of our allies, it's even been cooperation in places like Afghanistan and Iraq. And so I think we just have to look at it. And we're certainly reviewing it and we'll consult with Congress about it. But I think it's important from time that we take a look to make sure that we're not having a negative effect on the relationships that are really important to us from the point of view of getting our security environment -- improving the security environment.<sup>18</sup>

The Secretary seems aware of problems created by the Article 98 sanctions. The affected countries have been debating the issue within their governments since 2003. Chile, for example, began debating Article 98 sanctions in 2003. But the previous administration left it to the current administration of Michele Bachelet to settle the issue. Heated debates from July to October involved the current and past Secretaries of Defense; the current and past Army Commanders; the current and past Air Force Commanders; the Senators from both parties, and the President. The military commanders and Secretaries of Defense advised caution in turning down a bilateral Article 98 Agreement with the United States, and the political parties argued that siding with the ICC is more important than signing an Article 98 agreement with the United States. On his arrival in Washington, Mariano Fernandez, the new Chilean Ambassador to the United States, was immediately asked by the press about the fallout between Washington and Chile concerning the ICC. Ambassador Fernandez downplayed the question.<sup>19</sup> Many of our regional partners engaged in similar scenarios of political-military discussions concerning Article 98 sanctions. Military commanders generally favor signing an Article 98 Agreement with the U.S. since they are the parties most affected by the sanctions, while the politicians generally favor signing with the ICC and not the United States.

While the Defense Department, and particularly the U.S. Southern Command, opposes ASPA sanctions on military aid, the Bureau of Political-Military Affairs of the State Department, once overseen by former U.N. Ambassador John R. Bolton, reportedly strongly supports keeping the sanctions in place. This internal division may be one of the reasons why both State and Defense Department officials declined to testify at the 8 March 2006 hearing of the Senate Foreign Relations Committee on this topic. Some observers note that the possibility of waivers of military aid restrictions should not be interpreted as U.S. support for the ICC.<sup>20</sup>

On 14 March 2006, General Bantz Craddock, Commander of U.S. Southern Command, testifying before the Senate Armed Services Committee, stated that the ASPA continues to

have “unintended consequences” for Latin America. He declared that without IMET funding, countries have been unable to afford the unsubsidized cost of courses offered in the United States. He stated that “this loss of engagement prevents the development of long-term relationships with future [Latin American] military and civilian leaders.” Senator John McCain agreed with General Craddock’s concerns about ASPA sanctions. He asserted that the United States was paying “a very heavy price” in countries where military aid programs have been cut. He then suggested that sanctions could perhaps be eased by an amendment to the \$91 billion Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (H.R. 4939). His concerns about military aid cuts were echoed by Senators John Warner, Carl Levin, Hillary Clinton, and James Inhofe.<sup>21</sup>

On 19 September 2006, during the Senate Armed Services Committee Hearings on pending nominations, General Bantz Craddock (outgoing SouthCom Commander), along with Vice Admiral James Stavridis (incoming SouthCom Commander) responded to questions regarding the ASPA. Senator Inhofe, referring specifically to IMET, remarked that we used to think that we were doing other countries a favor by allowing them to come here and get training, but he now realized that the U.S. was the beneficiary of the program. He remarked that if we now have restrictions on our ability to bring in people to train, the Chinese and others are always there, ready to do it. General Craddock commented that he supports the ASPA, adding that:

Unfortunately, the unintended consequence of that is this International Military Education and Training program, the IMET.

And we are losing, every day, engagement opportunities with many nations around the world.

And over the years, as you said, this has benefited them. But to bring them to our schools, our institutions, they have the opportunity to live in our culture, see strong democratic institutions. Civilian leadership of the military is a powerful thing.

We gain from the engagement, the contact. We understand them better. When we're there, we're more appreciative and knowledgeable of their culture. And we're losing that in very critical countries.

I have been a strong advocate to de-link the IMET program from the ASPA sanction in order that we can engage and not lose contact with a generation or two or three of officers or noncommissioned officers in countries that are important to us and it's important to them to be linked with us.

So I certainly support and endorse any way possible that we can get this program back on track.<sup>22</sup>

The security forces in Latin America and the Caribbean that were trained by the IMET program are essential to maintain a check on potential transnational threats emerging from U.S. Southern Command's Area of Responsibility (AOR). A recent Congressional report indicated that "Venezuela is providing support -- including identity documents -- that could prove useful to radical Islamic groups." The report continues:

The Venezuelan government has issued thousands of 'cedulas,' the equivalent of social security cards, to people from Cuba, Colombia and 'Middle Eastern' nations that host foreign terrorist organizations. Recently, and just as alarmingly, several Pakistanis were apprehended at the US-Mexican border with fraudulent Venezuelan documents. According to senior US military and intelligence officials, Venezuela is emerging as a potential hub of terrorism in the Western Hemisphere, providing assistance to Islamic radicals from the Middle East and other terrorists. US immigration and customs enforcement investigations have revealed that aliens were smuggled from the Middle East to staging areas in Central and South America, before being smuggled illegally into the US.<sup>23</sup>

#### Institutions Affected

The following institutions have been affected by Article 98 Sanctions -- some more than others: US Army War College, US Naval Postgraduate School, US Air Force Air War College, US Naval Staff College, US Army Command and General Staff Officer College, Western Hemisphere Institute for Security Cooperation, National Defense University, Marine Corps Expeditionary Warfare School, Sergeants Major Academy, and Defense Language Institute.

Prior to the sanctions taking effect, the 11 countries that were later prohibited from military assistance in the Western Hemisphere had 771 students trained by our educational institutions. 132 of these were trained at the Western Hemisphere Institute for Security Cooperation (WHINSEC) and 24 were students at the Senior Service Schools listed above.<sup>24</sup>

The Naval Postgraduate School (NPS), for example, on 1 January 2004 had 144 IMET students; it currently has 82. Although the ASPA has certainly impacted IMET enrollment, it was but one of several reasons. Thanks to other programs like the Counter Terrorism Fellowship Program (CTFP), Fall Quarter 2006 students from the Western Hemisphere attending the NPS included six from Mexico, one from Brazil, two from Chile, two from Colombia, and one from Honduras.<sup>25</sup>

The following are examples of the types of instruction lost to two key regional partners:

Bolivia: National Defense University, Air War College, Command & General Staff College, Naval Staff College, Squadron Officers Course, Sergeants Major Academy, NCO Professional Development, Civil Military Operations, Resource Management, Human Rights Instructor,

International Operation Law, Parachute Rigger, English Language Program, and Aircraft maintenance and flight safety.

Brazil: Army War College, Air War College, National Defense University, Army Command & General Staff College, Air Command & Staff College, Squadron Officer School, Sergeants Major Academy, Captains Career Courses, NCO Professional Development, Civil-Military Relations, Civil Affairs, Computer Science (Masters), Resource Management, Simulator Training, and Flight Safety.<sup>26</sup>

From only these two examples (out of the eleven countries affected in the Western Hemisphere), one can see the loss of positive influence our military interaction might have generated had it not been for the Article 98 sanctions.

#### DOD Position and Executive Response

The U.S. Southern Command has been the focal point for the challenges faced by the U.S. armed forces commanders as they are improvising to maintain military-military engagements with key Latin American and Caribbean military partners. The Joint Staff requested position papers from the Combatant Commanders on the long-term effects the sanctions would have on the IMET program. According to SouthCom, IMET is one of the best and most cost-effective regional engagement tools for forging enduring military-to-military relationships with the future leaders of the hemisphere's security institutions. IMET courses train partner nation's military leadership on the proper role of military forces in democratic societies, along with the respect for human rights and democratic ideals.<sup>27</sup> Given the current focus on transnational threats in the region, the following two examples submitted by Security Assistance Organizations (SAOs) to SouthCom on the influence of IMET are very revealing:

- Bolivia – Reinstatement of IMET funding and respective PME support to the Bolivian Military can be the biggest mitigator of Cuban and Venezuelan influence, given the quality of U.S. sponsored military education.

- Venezuela – The best example of the effect of the Security Assistance Program in Venezuela can be seen today with the relationship the U.S. military maintains with the VEAf [Venezuelan Air Force] in light of the current political situation. We have seen and heard comments and actions from the top leaders in the VEAf expressing their support for the U.S. and their intention of maintaining the relationship we have today. Again, this is not due to one officer who attended the U.S. school system, but all of the generations that experienced and got exposed to the U.S. system and culture. This is a great tribute not only to the IMET program, but also to all of the engagement activities (TCA, CDTs, DFT, and SMEE) that have taken place between the VEAf and the United States military and civilian government agencies.<sup>28</sup>

An Information Paper submitted to the National Security Staff by the Joint Staff pointed out the strategic rationale for DOD's request for IMET waivers to the sanctions imposed by the ASPA on countries not yet signing an Article 98 bilateral agreement. Recommendations for U.S. National Interest Waivers (NIWs) were based on each country's strategic contribution to the War on Terrorism (WOT) and U.S. Homeland Defense. The Interagency (IA) concurred with the recommendations. The Joint Staff had compiled information from the Combatant Commands and the educational institutions impacted by the sanctions. In excerpts from the U.S. National Security Strategy, the following unclassified points were emphasized:

Specifically, the NSS notes the United States should spread its influence and "invest time and resources into building international relationships and institutions that can help manage local crises when they emerge." (NSS at 9) The NSS also recognizes that the U.S., in pursuance of its own strategy, should organize broad conditions, with leadership based on "clear priorities, or appreciation of others' interests, and consistent consultations among partners with a spirit of humility." (NSS at 25)

It is unclear at this time what impact these IMET waivers would have on our Article 98 effort.<sup>29</sup>

Fortunately, legislative and executive responses have been favorable, at least with respect to IMET. Before participating in the United Nations Stabilization Mission in Haiti, and because the sanctions imposed by ASPA were already in place, President George W. Bush, after a bilateral Article 98 Agreement was secured from Haiti, signed a waiver on June 2004, allowing U.S. troops to support the U.N. mission.<sup>30</sup> Since our initial efforts to obtain bilateral Article 98 Agreements, little by little President Bush has signed NIWs which waived prohibition on U.S. military assistance with respect to the ICC. In October 2006, President Bush signed National Interest Waivers excluding 11 more Western Hemisphere countries from the Article 98 sanctions – that number was over half of the countries listed world-wide.<sup>31</sup>

*USA Today* acknowledged these NIWs in a November 2006 article, "U.S. seeks better ties by aiding militaries." The article pointed out that concern over recent leftist victories in Latin America has prompted President Bush to quietly grant waivers that allow the United States to resume training militaries from 11 Latin American and Caribbean countries. It emphasized that the training ban had led to a loss of U.S. influence in the region, and reported that China has stepped into the gap.<sup>32</sup>



## Conclusions / Recommendations

### Conclusions

The vacuum created by the sanctions in our military-to-military relations since 2003 has not gone unnoticed by countries like China and Russia. The news of Russia's provision of military hardware (planes, helicopters, AK-47s, and munitions) to Venezuela is well known. Some claim that China's interest in Latin America and the Caribbean is strictly economic, but some information provided by various sources argues otherwise. During a House of Representatives Hearing before the Subcommittee on the Western Hemisphere of the Committee on International Relations, testimony on China's influence in Latin America and the Caribbean was presented. Consider the following excerpts:

In March 2005, China announced a 12.6% rise in official defense spending to \$30 Billion dollars, a figure some experts believe to be well below actual defense spending.

China has sold some 240 Surface-to-Air Missiles to Latin America, some of which have the potential to fall into the hand of narco-terrorists.

In 2000, China reportedly made three shipments of weapons and military-grade, dual-use explosives to Cuba, a known State-sponsor of terrorism.

In his testimony to the House Armed Services Committee, General Bantz Craddock of the U.S. Southern Command warned of China's increasing influence among Latin American militaries. He specifically noted that Chinese defense officials made 20 visits to Latin America and Caribbean countries just last year.<sup>33</sup>

Our loss of military influence in the region has been compounded by the rise of anti-Americanism in regional politics. Venezuela's President Hugo Chávez has led this movement; it has been supported by populist leaders in Bolivia, Ecuador, Argentina, and Nicaragua. Moisés Naím, editor-in-chief of *Foreign Policy*, warns that "just as the five-year-old war on terror pronounced the necessity of confronting threats where they linger, it also underscored the dangers of neglect. Like Afghanistan, Latin America shows how quickly and easy it is for the United States to lose its influence when Washington is distracted by other priorities. In both places, Washington's disinterest produced a vacuum that was filled by political groups and leaders hostile to the United States."<sup>34</sup>

Fortunately, the efforts of the U.S. Ambassadors, Security Assistance Organizations, Combatant Commands, Joint Staff J5, Department of the Army G5, Component Commands, and educational institutions have provided strategic rationale for the decoupling of IMET from Article 98 Sanctions. Their efforts have proven fruitful, as recent unofficial information indicates

that ASPA and Article 98 will be effectively decoupled in the FY 07 National Defense Authorization Act (H.R. 5995).<sup>35</sup>

Unfortunately, it has taken over three years for the process to restore the IMET program. Funding cannot be applied until the continuing resolution expires, probably in the 2<sup>nd</sup> quarter of FY 07. Once funding is in place, SouthCom can work with U.S. military schools to determine availability of training slots. The Command expects to receive some students in the U.S. in the 3<sup>rd</sup> quarter of FY 07.<sup>36</sup> That means that four years will have transpired before the sanctioned countries can again send armed forces and law enforcement personnel to participate in our educational systems and culture. Some of those young leaders will eventually be the Army Commanders, Armed Forces Commanders, Police Commanders, and Ministers of Defense of their countries. But the United States will have lost more over the four-year period than our regional partners have lost. As Senator Inhofe stated, "There was a time when it [IMET] first began that we thought we were doing other countries a favor by allowing them to come here and get training, and that's totally changed, in my thinking, anyway. I think that we're the beneficiaries of this program."<sup>37</sup>

The fact that IMET has been decoupled from the sanctions imposed by Article 98 is a great first step in mending the damage that was initiated by a political action intended to protect our soldiers abroad, but which resulted in unintended, negative consequences. However, the sanctions will continue on arms sales and sharing of excess defense articles. These other military sanctions are also detrimental to our military-to-military relationships. We must consider the benefits of lifting these sanctions as well.

## Recommendations

We have lost a great opportunity over these last three years to assist in developing the future leaders of our partner nations; we have thus lost any potential influence which could have proven beneficial in the future. Our partner nations have lost multiple opportunities to train their military and security forces in our educational system and to immerse their future leaders into our culture and to cultivate American and international friendships. While we cannot reverse the loss, we can take several steps to arrest the decline of U.S. influence in Latin America and the Caribbean and improve our standing by making several adjustments.

First, Department of State funds allocated for military-type initiatives should be transferred to the Department of Defense for subsequent allocation to the Combatant Commanders. The bureaucratic process within the Department of State delays any recommendations or adjustments to the security assistance program from months to years, and this keeps the United

States from meeting the needs of allies in a timely and effective manner. For example, after the Article 98 sanctions were first imposed, security assistance funds were reallocated from countries that were a party to the ICC and had refused to sign a bilateral agreement with the U.S. to a country which had signed a bilateral agreement and desired more assistance. But the process sometimes took up to a year. Precise records of dates of recommendation of IMET funds transfer to effective date of availability for commitment by recipient countries are not available. However, data available in SouthCom indicate that an attempt to move funds earlier than normal in FY 04 never came to fruition. In FY 05, a modest amount was transferred early (May 2005) to a few countries, but that was the exception.<sup>38</sup> Combatant Commanders should be able to make such adjustments within weeks. The Defense Security Cooperation Agency (DSCA) is the principal DoD organization through which the SecDef carries out responsibilities for Security Assistance;<sup>39</sup> however, the State Department could still have an oversight role in the process by having the U.S. Ambassador sign as the in-country approving authority in each country where a security assistance program is submitted thru the Combatant Commander to DSCA for final approval. After all, the Security Assistance Organization Commanders (Military Groups, Military Liaison Offices, Military Assistance and Advisory Groups, and Offices of Defense Cooperation), specifically the Army, Navy and Air Force Section Chiefs who manage the Security Assistance program, support the U. S. Ambassadors in their respective countries. But they work for the Combatant Commanders.

Second, in addition to the IMET program now decoupled from the sanctions, the other military sanctions (Foreign Military Financing funds, Military Assistance Drawdowns, and Excess Defense Articles) affected by the sanctions should also be decoupled. While IMET training is the primary vehicle for maintaining our influence in the region (and the world), the other military assistance packages vitally enable the security forces in the region to better equip and prepare themselves for regional and cooperative initiatives. It does no good to have a highly educated tactical leader if he does not have the equipment with which to train and prepare for regional cooperation. As we have already seen, countries like Colombia and Mexico (not to mention Venezuela) are turning to other countries like China and Russia to get their equipment.

Third, Venezuela should also be considered for IMET reinstatement at the present time, with security assistance possible in the future if the U.S. relationship with that country improves. Consider the observation of the SAO in Venezuela in reference to the Venezuelan Air Force (p.11). The SAO reports that the officers want to maintain the same relationship with our Air Force officers that they have experienced in the past. There are also officers in the Venezuelan army who prefer U.S. military training to that of other countries like Russia or China. According

to a former U.S. Military Group Commander in Venezuela, the Article 98 sanctions played right into President Hugo Chávez's hands. First the Venezuelan government ridiculed the \$700,000 IMET budget loss (a small amount for an oil rich country like Venezuela). Secondly, the sanctions gave Chávez the excuse to further cut off military-to-military interaction with the U.S. military and the United States lost the best opportunity to influence their armed forces.<sup>40</sup> It is likely that Chávez will deny his military officers the training if it is offered. But then the officers' resentment would be directed at him, not against the United States.

Although we are still under-funding assistance to our neighbors, I believe the Nethercutt Amendment, which cuts \$2.5 billion in Economic Support Funds from countries still refusing to sign an Article 98 Agreement, should be the only "stick" that we hold over our partner nations' heads as we execute our strategic diplomacy. We neglect our neighbors' security needs at our own peril.

If we are to achieve the regional security cooperation goals stipulated in our National Defense and National Military Strategies, we must pursue policies that assist our allies' military forces in achieving those goals. Not only do we need regional cooperation in the global war on terrorism, we also need the assistance of well-trained and equipped security forces capable of analyzing, detecting and eliminating potential transnational threats. Cooperative efforts to decouple IMET from the Article 98 Sanctions have been successful. Fortunately, our policy-makers do make adjustments to policies which prove to be detrimental to our national security goals. The next step is to further amend a policy which is keeping the United States Armed Forces from achieving its security cooperation objectives.

## Endnotes

<sup>1</sup> The National Security Strategy of the United States, March 2006, i.

<sup>2</sup> Ibid., 37.

<sup>3</sup> President George W. Bush, "Waiving Prohibition on United States Military Assistance to Parties to the Rome Statute Establishing the International Criminal Court," Memorandum for the Secretary of State, The White House, September 24, 2003; available from <http://www.state.gov/t/pm/rls/prsr/24579.htm>; Internet, accessed 16 October 2006.

<sup>4</sup> Joseph R. Nuñez, "Homeland and Hemisphere," *Christian Science Monitor*, 20 December 2001.

<sup>5</sup> US Stratcom, Foreign Print Media Summary, week of 22-28 Nov 06; e-mailed to author by US Army South, 8 Dec 06. South American countries in the Tri-Border region, or Tri-Border Area (TBA) are: Paraguay, Brazil and Argentina.

<sup>6</sup> Fact Sheet, "The International Criminal Court," Bureau of Political-Military Affairs, Washington, DC, August 2, 2002; available from <http://www.state.gov>; Internet; accessed 6 Nov 06.

<sup>7</sup> Ibid.

<sup>8</sup> Information Paper, "The International Military Education and Training Program," United States Southern Command, 10 February 2005; e-mailed to author, 8 Oct 06.

<sup>9</sup> Gary T. Dempsey, "*Reasonable Doubt—The Case Against the International Criminal Court*," Policy Analysis, The Cato Institute, Policy Analysis 311, 16 Jul 98; available from <http://cato.org/pubs/pas/pa-311.html>; Internet; accessed 30 Oct 06. The following are detailed accounts of the chronology of events leading to the creation of the ICC:

Serious discussion about creating a permanent international criminal court began following the creation of the Nuremberg and Tokyo tribunals after World War II. In tandem with the drafting of the Convention on the Prevention and Punishment of the Crime of Genocide (1948) and the various Geneva Conventions (1949), the United Nations General Assembly asked the International Law Commission--the body in charge of codifying international law--to examine the possibility of creating a permanent international criminal court. By the early 1950s the International Law Commission had produced two draft statutes, but the project was shelved when it became apparent that the political climate of the Cold War made such a court impracticable.

In 1989 the UN delegation from Trinidad and Tobago revived the idea of establishing an international criminal court, proposing the creation of a world judicial body capable of dealing with crimes related to international drug trafficking. While the International Law Commission resumed work drafting an ICC statute, the UN established temporary international criminal tribunals to adjudicate cases of war crimes, crimes against humanity, and genocide committed during the recent conflicts in the former Yugoslavia and Rwanda.

The International Law Commission submitted an ICC draft statute to the UN General Assembly in 1994, recommending that an international conference be convened to finalize a treaty. Two years later, the UN General Assembly convened the Preparatory Committee on the Establishment of an International Criminal Court, which allowed UN member states and nongovernmental organizations to begin preliminary negotiations on the text of the statute. The Preparatory Committee held six sessions over more than two years and completed an amended draft statute on April 3, 1998.

<sup>10</sup> International Criminal Court, "*Chronology of the International Criminal Court*," available from <http://www.icc-cpi.int/php/whatistheicc/chronology.php>; Internet; accessed 12 Nov 06. Details included:

The Rome Treaty became effective 1 July 2002. The inauguration of the ICC took place on 11 March 2003 with the swearing-in of the judges before the President of the Assembly of States Parties, HRH Prince Zeid Ra'ad Zeid Al Hussein. The inaugural public session was held at the Hall of Knights in The

Hague. The ceremony was attended by Her Majesty Queen Beatrix of the Kingdom of The Netherlands, in Her capacity as Head of the host state of the Court and by the United Nations Secretary-General Mr. Kofi Annan.

<sup>11</sup> Cour pénale internationale / International Criminal Court, The Netherlands; available from <http://www.icc-cpi.int>; Internet; accessed 10 Nov 06. Article 98 of the Rome Statute stipulates:

1. The Court may not proceed with a request for surrender or assistance which would require the requested State to act inconsistently with its obligations under international law with respect to the State or diplomatic immunity of a person or property of a third State, unless the Court can first obtain the cooperation of that third State for the waiver of the immunity.

2. The Court may not proceed with a request for surrender which would require the requested State to act inconsistently with its obligations under international agreements pursuant to which the consent of a sending State is required to surrender a person of that State to the Court, unless the Court can first obtain the cooperation of the sending State for the giving of consent for the surrender.

<sup>12</sup> Marc Grossman, Under Secretary for Political Affairs, "*American Foreign Policy and the International Criminal Court*," Remarks to the Center for Strategic and International Studies, Washington, DC, May 6, 2002; available from <http://www.state.gov/p/us/rm/9949.htm>; Internet; accessed 16 Oct 06.

<sup>13</sup> Clare M. Ribando, "*Article 98 Agreements and Sanctions on U.S. Foreign Aid to Latin America*," CRS Report for Congress, 10 April 2006; available from <http://fpc.state.gov/documents/organization/66476.pdf>; Internet, accessed 12 Oct 06.

<sup>14</sup> John R. Bolton, Under Secretary for Arms Control and International Security, "*The United States and the International Criminal Court*," Remarks to the Federalist Society, Washington, DC, November 14, 2002; available from <http://www.state.gov/t/us/rm/15158.htm>; Internet; accessed 16 Oct 06. The rest of his speech is included below which more thoroughly explains the State Department's position on the character of the ICC:

Never before has the United States been asked to place any of that power outside the complete control of our national government without our consent. Our concern goes beyond the possibility that the Prosecutor will target for indictment the isolated U.S. soldier who violates our own laws and values by allegedly committing a war crime. Our principal concern is for our country's top civilian and military leaders, those responsible for our defense and foreign policy. They are the ones potentially at risk at the hands of the ICC's politically unaccountable Prosecutor, as part of an agenda to restrain American discretion, even when our actions are legitimated by the operation of our own constitutional system.

The Prosecutor will answer to no superior executive power, elected or unelected. Nor is there any legislature anywhere in sight, elected or unelected, in the Statute of Rome. The Prosecutor is answerable only to the Court, and then only partially, although the Prosecutor may be removed by the Assembly of States Parties. The Europeans may be comfortable with such a system, but Americans are not.

The Statute of Rome substantially minimized the Security Council's role in ICC affairs. While the Security Council may refer matters to the ICC, or order it to refrain from commencing or proceeding with an investigation or prosecution, the Council is precluded from a meaningful role in the ICC's work. In requiring an affirmative Council vote to *stop* a case, the Statute shifts the balance of authority from the Council to the ICC. Moreover, a veto by a Permanent Member of such a restraining Council resolution leaves the ICC completely unsupervised. This attempted marginalization of the Security Council is a fundamental *new* problem created by the ICC that will have a tangible and highly detrimental impact on the conduct of U.S. foreign policy. The Council now risks having the ICC interfering in its ongoing work, with all of the attendant confusion between the appropriate roles of law, politics, and power in settling international disputes. The Council already has had to take action to dilute the disincentive the ICC poses to nations considering troop contributions to UN-related peacekeeping operations.

Using Article 98 of the Rome Statute as a basis, we are negotiating bilateral, legally-binding agreements with individual States Parties to protect our citizens from being handed over to the Court. Since the European Union's decision in September to permit its member states to conclude Article 98 agreements with the United States, our negotiators have been engaged in bilateral discussions with several EU countries. In the near future we will also be holding discussions on the issue with several countries in the Middle East and South Asia. Our ultimate goal is to conclude Article 98 agreements with every country in the world, regardless of whether they have signed or ratified the ICC, regardless of whether they intend to in the future. These agreements will allow us the necessary protections in a manner that is legally permissible and consistent with the letter and spirit of the Rome Statute.

<sup>15</sup> Fact Sheet, "The International Criminal Court," Bureau of Political-Military Affairs, Washington, DC, August 02, 2002; available from <http://www.state.gov>; Internet; accessed 6 Nov 06.

<sup>16</sup> No Peace Without Justice, "US Nethercutt Amendment Threatens Overseas Aid to Allies that have Joined the ICC," 15 December 2004; available from <http://www.npwj.org/?q=node/1916>; Internet, accessed 26 December 2006.

<sup>17</sup> Clare M. Ribando, 1.

<sup>18</sup> Trip Briefing, En Route to San Juan, Puerto Rico, March 10, 2006; available from <http://www.state.gov/r/pa/prs/dpb/2006>; Internet, accessed 6 Nov 06.

<sup>19</sup> Open Source Center; "Chile: Ambassador Fernandez denies US 'Threat' regarding Venezuelan UNSC Seat," 1 July 2006; available from [http://www.opensource.gov/portal/server.pt/gateway/PTARGS\\_0\\_0\\_240\\_1019\\_43/..11/20/2006](http://www.opensource.gov/portal/server.pt/gateway/PTARGS_0_0_240_1019_43/..11/20/2006). Also available for the months of April through July.

<sup>20</sup> Clare M. Ribando, 7.

<sup>21</sup> Clare M. Ribando, 6.

<sup>22</sup> Congressional Transcripts, Congressional Hearings; Senate Armed Services Committee Holds Hearing on Pending Nominations; Sept. 19, 2006, 20-21; e-mailed to author Nov 06.

The following is the entry on IMET and the ensuing comments of Senators Ihenhof and Warner, and GEN Craddock and ADM Stavridis:

INHOFE: There is not a lot of time left, but there is one other subject that I feel very strongly about and that is the IMET program. As you know, in the defense authorization bill that we hope that we'll be able to get here shortly, we have some provisions that give an easier access to that program.

There was a time when it first began that we thought we were doing other countries a favor by allowing them to come here and get training, and that's totally changed, in my thinking, anyway. I think that we're the beneficiaries of this program.

STAVRIDIS: Yes, sir.

INHOFE: And I would like to know, because it will affect all countries. We found out readily that if we have any restrictions in our ability to bring in people to train, the Chinese and others are always there, ready to do it.

Mr. Chairman, I can't think of any single thing that we can do that gives us a greater inside track with these countries than to give the training over here.

So I would like to ask each one of you to comment as to your feeling about the program, and where you see it going.

CRADDOCK: Thank you, Senator.

I would say first that we support the American Service Members Protection Act and, unquestionably, we want our service members protected around the world. Unfortunately, the unintended consequence of that is this International Military Education and Training program, the IMET.

And we are losing, every day, engagement opportunities with many nations around the world.

And over the years, as you said, this has benefited them. But to bring them to our schools, our institutions, they have the opportunity to live in our culture, see strong democratic institutions. Civilian leadership of the military is a powerful thing.

We gain from the engagement, the contact. We understand them better. When we're there, we're more appreciative and knowledgeable of their culture. And we're losing that in very critical countries.

I have been a strong advocate to de-link the IMET program from the ASMPA sanction in order that we can engage and not lose contact with a generation or



two or three of officers or noncommissioned officers in countries that are important to us and it's important to them to be linked with us.

So I certainly support and endorse any way possible that we can get this program back on track.

INHOFE: Yes, it was unintended consequences, and it's a program that I really feel strongly about. Do you agree, pretty much, Admiral?

STAVRIDIS: Yes, sir. I think the expression up here is, "I'd like to associate myself with the remarks of" General Craddock, and I do so completely.

I'll just point out that, within the SOUTHCOM area of responsibility -- 32 countries -- 11 of them are affected by this. So it's extremely significant in Southern Command, and I completely agree with General Craddock's assessment and would hope that we can...

INHOFE: Thank you. Mr. Chairman, that's another reason we need to really get that thing moving along, because this bill will offer new opportunities for you guys.

STAVRIDIS: That would be great.

INHOFE: Thank you, Mr. Chairman.

WARNER: Senator, I have always been a strong proponent, as you have, of the IMET. And it's interesting the chapter -- for those following this hearing, that might not know the specifics, it's young officers of the foreign nations who are brought here and then given an opportunity, usually up to a year or so, to study in our various military colleges and institutions.

And as you well know, Senator, so often those officers who are, let's just say, young captains or majors, go back home and they rise through the ranks and usually become the senior military officers in their respective nations.

And that bond is of great value in times of stress, should it occur, because they often turn to their counterparts here in American uniforms...

STAVRIDIS: Yes, sir.

WARNER: ... having served with them, to seek advice and guidance. So you're right on target, and I...

INHOFE: I would go one step further. Not just the educational institutions, but, like Fort Sill and artillery training and some of our military installations. It's very significant.

STAVRIDIS: Yes, sir.

<sup>23</sup> Stratcom-fma\_alert-southcom, "Venezuela a 'potential hub of terrorism' in Americas: US Congress report; available from [http://file:///F:/FW ALERT-SOUTHCOM Venezuela a 'potential hum of terrorism'](http://file:///F:/FW%20ALERT-SOUTHCOM/Venezuela%20a%20potential%20hub%20of%20terrorism) in Americas; Internet, accessed 28 December 2006.

<sup>24</sup> U.S. Southern Command Impact Paper, "Long Lasting Impact of IMET," prepared for Joint Staff, 10 July 2006; e-mailed by SCJ5, 17 Oct 06.

<sup>25</sup> H. Gary Roser, e-mail message to author, 13 November 2006.

<sup>26</sup> U.S. Southern Command Impact Paper, 2.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> David Jividen, e-mail message to author, 6 November 2006.

<sup>30</sup> President George W. Bush, "Certification Concerning U.S. Participation in the United Nations Stabilization Mission in Haiti, Consistent with Section 2005 of the American Servicemembers' Protection Act," Memorandum for the Secretary of State, The White House, June 2004; available from <http://www.whitehouse.gov/news/releases/2004/06/20040614-10.html>; Internet, accessed 11 December 2006.

<sup>31</sup> President George W. Bush, "Waiving Prohibition on United States Military Assistance with Respect to Various Articles of the Rome Statute Establishing the International Criminal Court," Memorandum for the Secretary of State, The White House, 29 September 2006; emailed to the author 17 Oct 06.

<sup>32</sup> Barbara Slavin, "U.S. seeks better ties by aiding militaries," USA Today, 10 November 2006, 1.

<sup>33</sup> Hearing before the Subcommittee on the Western Hemisphere of the House of Representatives Committee on International Relations, "China's Influence in the Western Hemisphere," 109<sup>th</sup> Congress, First Session, April 6, 2005, Serial No. 109-63, 11,13; available from [http://commdocs.house.gov/committees/intlrel/hfa20404.000/hfa20404 0.HTM](http://commdocs.house.gov/committees/intlrel/hfa20404.000/hfa20404%200.HTM); Internet, accessed 20 December 2006.

The following points were highlighted by Peter T.R. Brooks, Senior Fellow for National Security Affairs, and Director, Asian Studies Center, The Heritage Foundation, during his testimony before the same Subcommittee:

China is also on a military diplomacy offensive across the globe. China has formed military diplomatic ties with 146 countries and sent military attaches to 103 countries. China uses these exchanges to gather information on the host country, as well as other countries if possible, for military doctrine development as well as military intelligence purposes.

In 2004, more than 100 military exchange programs took place, involving Chinese military leaders visiting more than 60 countries and senior officers from about 50 countries visiting China. Some exchange programs featured joint

military exercises, security sessions involving military officers from multiple countries, combined seminars on defense and security, and field trips.

China has military and security interests in Latin America as well. China's presence at Signals Intelligence (SIGINT) facilities in Cuba directed at the United States is long-standing and well known, but China is establishing military ties in Latin America as well.

For example, in 2004, Defense Minister Cao Gangchuan paid a visit to Brazil. In April 2004, Vice-Chairman of the Central Military Commission Xu Caihou visited Cuba and called on Cuban military units and training centers. Since the late 1990s, at least one high-level visit has taken place every year to Venezuela.

In addition, Chinese intelligence services are, undoubtedly, active in Latin America and the Caribbean, using Chinese front companies, students, visitors and intelligence officers to steal and exploit technology and commercial secrets of interest to enhance their military prowess and economic competitiveness.

### *Conclusion*

China has achieved unparalleled growth in its power, influence and importance over the last 20 years. Its grand strategy is to become the pre-eminent power in the Pacific--and in the world--replacing the United States as the world's most powerful nation.

Though that point is not here today, China is making progress on both accounts.

The PRC is seeking friends and allies to advance its agenda in Asia, Europe, Africa, the Middle East—and Latin America.

Like most other nations, China is committed to improving the performance of its economy and spreading its political influence. Its actions are worrisome in Latin America and the Caribbean because some national leaders, such as Venezuela's Hugo Chavez, welcome the arrival of another world power to offer an alternative to the United States.

<sup>34</sup> Moisés Naím, "The Lost Continent," *Foreign Policy*, no 157 40-3, 45-7 N/D 2006; available from [http://vnweb.hwwilsonweb.com/hww/results/results\\_single.jhtml?nn=2](http://vnweb.hwwilsonweb.com/hww/results/results_single.jhtml?nn=2); Internet, accessed 1 December 2006.

<sup>35</sup> Matthew D. Anderson, e-mail message to author, 30 November 2006.

<sup>36</sup> Axel Martinez, e-mail message to author, 2 October 2006.

<sup>37</sup> Congressional Transcripts, 22.

<sup>38</sup> Donna Stevens, e-mail message to author, 3 January 2007.

<sup>39</sup> *Defense Security Cooperation Agency Home Page*, available from <http://www.dsca.osd.mil/PressReleases/faq.htm>; Internet; accessed 21 January 2007.

<sup>40</sup> COL Terry DeRouchey, DNSS, US Army War College, interview by author, 4 January 2007, Carlisle Barracks, PA.